ITT Not Unique in

By Morton Mintz
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A key issue in the International Telephone and Telegraph Co. furor is the charge that ITT translated economic clout into political clout: the company, after making an allegedly excessive political gift to the GOP, went secretly to Deputy Attorney General Richard G. Kleindienst to get a favorable settlement of a crucial antitrust suit.

ITT isn't unique. Numerous economic and political powerhouses have covertly manuevered to get help on antitrust matters, and sometimes have gotten it—not only from the Justice Department, but also from the White House and from Congress, in Democratic years and in Republican years. The ITT case is one that happens to have come to light and gotten attention.

Moreover, Sen. James O. Eastland (D-Miss.), who said Thurday that Kleindienst was being "persecuted," himself has been charged with having pressured the department—over which his Senate Judiciary Committee exerts great sway—in a 1968 bank merger case in which his wife was financially interested.

By Nader Aides

The charge was made in a report, "The Closed Enterprise System," by aides to Ralph Nader. The Washington Post dictated the text of the charge to an Eastland aide last June 3, three days before publishing it, and requested comment. None was made.

In the Eastland case, the Nader report said, three Mississippi banks—Deposit Guaranty, City Bank and Trust and First National of Jackson—wanted to merge. Then antitrust chief Donald F. Turner, in a memo to Attorney General Ramsey Clark, said the merger would be among "the clearest examples of . . . anticompetitive market extension mergers which have come to our attention to date."

The department moved to prevent the merger. "Eastland tried to get the case killed," the report said. But the department persisted. It lost in the lower court. "Then, in a surprising development, the case was never appealed," the report said. The merger endured.

Whatever the source of pressures on the Justice Department's antitrust chief, whoever he is, he cannot resist as might a free agent. He isn't one. And, incidentally, the job has been vacant altogether for the last five weeks.

For years, the practice has been that the head of the Antitrust Division can seek a court order to restrain or temporarily enjoin a merger only with the approval of the Attorney General who, of course, is the President's man. Notably, assistant attorneys general in other — and maybe less sensitive— fields are empowered to act on their own.

Here are some cases in point:

• Three years ago, ITT was seeking to acquire the Canteen Corp, the leading maker of vending machines. Antitrust chief Richard W. McLaren, in a memo to Attorney General John N. Mitchell, termed a preliminary injunction—to block the merger—"particularly necessary." Mitchell disqualified himself, however, because his and President Nixon's former law firm (now Mudge, Rose Guthrie and Alexander) had represented ITT. Kleindienst then took over.

Two weeks before the merger was to be consummated, ITT asked for and got assurance that the department would take no action to abort it; meanwhile, ITT would re-evaluate the wisdom of the acquisition.

"During this supposed respite," Mark J. Green wrote in "The Closed Enterprise System," "ITT, aided by New York investment houses which would greatly profit if the merger were completed, lobbied White House staff close to Nixon to get the case dropped . . . ITT's importunings were relayed, with approval, to Kleindienst, who promptly refused to file the complaint.

After Consummation

"McLaren was furious . . . He went to the White House and announced that he would resign if the case were not brought. . . . The final resolution was a compromise. The case was filed, but not until after the merger had been consummated."

McLaren, in an interview last December, told this reporter, "I have never threatened to resign."

• In 1967, when ITT was pressing its ultimately abandoned merger with the American Broadcasting Co., a bipartisan bloc of about 300 senators and congressmen complained that the Justice Department was opposing the move before the Federal Communications Commission.

• A few weeks ago, Elmer H. Bobst, one of the President's closest friends, revealed that he had talked with "people in the White House" about the acquisition, in 1970, of Parke-Davis by another drug firm, Warner-Lambert, of which Bobst is honorary chairman and principal stockholder.

Again because Mudge, Rose was involved, representing Warner-Lambert,

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Mitchell took himself out of the case and left it to Kleindienst. Again, McLaren wanted to prevent the merger from being consummated. Again, Kleindienst blocked him.

Left Last Month

Bobst told Dom Bonafede of The National Journal that McLaren and some of his staff had threatened to quit, contradicting the antitrust chief. In any event, Bobst said, McLaren "probably would not have been reappointed." McLaren left last month to become a U.S. District Judge in Chicago.

• Early in the Kennedy administration, the department issued the civil counterpart of subpoenas for records of the giant Colonial Pipeline Co. Later, in the Johnson administration, the antitrust division staff recommended a suit to divest all but one of the nine owning oil companies.

"Nothing happened," Beverly C. Moore Jr., an aide to Nader, told a Senate Joint Economic subcommittee last January. A top aide to McLaren asserted the matter is still under investigation but almost a decade after it got underway declined to set a target date for completion.

Cryptic Comment

• Last summer, McLaren asked Mitchell for permission to compel owners of the proposed Alaskan crude-oil pipeline — all oil companies —to produce their records. Instead of the usual "routine approval," Moore testified, Mitchell's office returned the request with an "initialed comment which read, according to an Antitrust Division attorney who saw it, 'In view of what's going on this is not the time.'" This may have referred, Moore said, to a decision pending in the Interior Department on the environmental impacts of the pipeline.

(Kleindienst sent the case to the Federal Trade Commission, which later moved to try to unscramble the merger. Before that move, Bobst, one of the President's principal campaign donors, told Bonafede, White House aide Peter M. Flanigan "received and interviewed" GOP members of the FTC "to discuss and review the Warner-Lambert case." The FTC has denied such an incident occurred)

• In 1969, Mitchell warned that economic "super-concentration" poses a "danger . . . to our economic, political and social structure (that) cannot be over-estimated." The same year, reflecting that mod, the department indicated it would fight a proposed meger of the 17th and 18th largest steel firms, thus aborting it. Last August—over McLaren's objections—Mitchell allowed the fourth-largest steel firm (National) to merge with the eleventh (Granite City) to form the third-largest.

McLaren had an early inking of what lay ahead. Months after the Nixon administration took office, he testified, with Budget Bureau approval, against a bill to allow joint newspaper operations in 22 cities to fix prices, pool profits and allocate markets. After a visit to the White House by a key backer of the bill, Richard Berlin of the Hearst Corp., President Nixon, through the Commerce Department, endorsed the measure.